

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CONSUMER FINANCIAL
PROTECTION BUREAU,

Plaintiff,

v.

THE MORTGAGE LAW GROUP, LLP, (D/B/A
THE LAW FIRM OF MACEY, ALEMAN &
SEARNS), CONSUMER FIRST LEGAL
GROUP, LLC, THOMAS G. MACEY,
JEFFREY J. ALEMAN, JASON E. SEARNS, and
HAROLD E. STAFFORD,

Defendants.

14-cv-513-wmc

**DEFENDANTS' MOTION TO STRIKE PORTIONS OF PLAINTIFF'S
POST-TRIAL BRIEF REGARDING REGULATION O'S ATTORNEY EXEMPTION**

During closing arguments on April 28, 2017, the Court identified for the parties several narrow and specific issues on which the Court requested post-trial briefs. One of those issues was:

[t]he statutory language [of the Consumer Financial Protection Act] itself and what Congress's intent was in creating a restriction in application of the regulation to those licensed to practice the law in the state in which the consumer was located....And whether or not Congress intended that it be read expressly, in other words that it be applied to those licensed to practice law in the state, which is a very specific statement, or it was intended to also include those who were otherwise practicing law in the state through or with local counsel.

(Dkt. #388 at 5-A-98:17-99:2) The Court instructed Defendants to file a brief that would "focus on just that issue, what was Congress's intent and, by implication, what is the Bureau's authority to regulate." (*Id.* at 5-A-99:22-24; 101:25-102:6)

On May 15, Defendants submitted their brief addressing that specific issue. (*See* Dkt. #396) On May 24, the Bureau responded. (Dkt. #401) The majority of the Bureau's brief appears to have exceeded the scope of the issue framed by the Court. Much of the Bureau's brief addresses the evidence presented at trial and amounts to closing argument. Specifically, the entirety of

Section I of the Bureau's brief, and pages 24-35 (as paginated in the ECF stamp in the document header) of Section III of the Bureau's brief, argue evidence rather than addressing the legal issue that the Court identified for briefing. The Bureau's brief also seemingly invites this Court to reconsider Judge Crabb's previous ruling that the Consumer Financial Protection Act is relevant to an analysis of the Bureau's authority. (*See* Dkt. 144 at 10-12; Dkt. 401 at page 7 of 37.)

Defendants did not understand the Court's instruction on April 28 framing the legal issue to be addressed to invite the type of closing argument delivered in the Bureau's response brief. Had Defendants understood the Court's instruction to include argument of the record evidence, Defendants could – and would – have included such argument in their opening brief.

Defendants are mindful of the Court's statement that it does not want a reply brief on this issue. Defendants are also mindful of the Court's familiarity with the evidence presented at trial in this case. Defendants do not know whether a reply brief addressing the points raised in the Bureau's response brief that were *not* addressed in Defendants' opening brief would be helpful to the Court. However, if the Court feels it would be helpful or desirable for Defendants to submit a reply brief on those issues, Defendants stand ready to file such a brief in short order if requested by the Court.

WHEREFORE, defendants, Consumer First Legal Group, LLC, Thomas G. Macey, Jeffrey J. Aleman, Jason E. Searns, and Harold E. Stafford respectfully request that the Court strike (or disregard) the entirety of Sections I and III of the Bureau's brief, and the improper argument on page 7 (of 37) of the Bureau's brief to the extent it asks the Court to reconsider Judge Crabb's previous ruling that the Consumer Financial Protection Act is relevant to an analysis of the Bureau's authority. In the alternative, if the Court feels it would be helpful or desirable for

Defendants to submit a reply brief addressing those issues, Defendants stand ready to file such a brief.

Dated: April 17, 2017

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